

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-475

October 3, 2003

COMMUNITY SERVICE TELEPHONE
COMPANY, NORTHLAND TELEPHONE
COMPANY OF MAINE, INC., SIDNEY
TELEPHONE COMPANY, STANDISH
TELEPHONE COMPANY, CHINA
TELEPHONE COMPANY, AND MAINE
TELEPHONE

PROTECTIVE ORDER NO. 1
(Chanin Confidential
Memorandum and CST
Response to 1-EX-21)

In this proceeding, Community Service Telephone Company ("CST") has claimed that the text of the Chanin Capitol Partners Confidential Memorandum (the "Memorandum") and portions of its response to 1-EX-21 (which is based as the Memorandum) are confidential or proprietary because their public disclosure will be harmful to the Company and its customers. Specifically, the Memorandum and response contain information which, if made public, could create misunderstandings about the Company's prospects and performance.

Section 1311-A (1)(A) of Title 35-A of the Maine Revised Statutes grants the Commission the authority to issue protective orders to protect the interests of parties in maintaining confidential or proprietary information, trade secrets, or similar matters as provided by the Maine Rules of Civil Procedure, Rule 26(c), but subsection (1)(C) places the burden of demonstrating the need for protection on the party requesting it.

The Presiding Officer concludes that the limited and revocable protection is warranted under 35-A M.R.S.A. § 1311-A and Rule 26(c) of the Maine Rules of Civil Procedure for the reasons stated in CST's motion. The Memorandum qualifies as confidential business information. The potential harm of public disclosure outweighs the potential benefits.

The information will be made available to the Commission, to the Public Advocate, and to all other parties. Any party at any time can move for a finding that material subject to protection should no longer be protected or that the other party should be provided access to the protected information pursuant to protective provisions. Unless such a motion is granted, however, use of the allegedly confidential materials continues to be restricted by the terms of this Protective Order.

Accordingly, it is

ORDERED

1. That the following information shall be considered "Designated Confidential Information" for purposes of this Order and, until such time as this Order is modified, access to Designated Confidential Information shall be limited as described in Paragraph 4 below:
 - (a) An October 2002, Confidential Information Memorandum prepared for Community Services Communications, Inc. by Chanin Capital Partners.
 - (b) CST's response to Examiners' Data Request No. 1, item 21.
2. That all Designated Confidential Information shall, unless removed from the coverage of this Order, as provided in paragraph 3 below, be and remain confidential. Designated Confidential Information shall not be disclosed for any purpose other than the purposes of this proceeding, and then solely in accordance with this Order. No person to whom access to Designated Confidential Information is accorded pursuant to paragraph 4 of this Order shall disclose or reveal, directly or indirectly, the content of the Designated Confidential Information to others, except as provided in paragraph 4.
3. That the parties to whom Designated Confidential Information is furnished may challenge the designation of any documents or other information as confidential by motion to the Commission and upon reasonable prior notice to the parties and an opportunity for hearing. In considering such motion, the burden of demonstration contained in 35-A M.R.S.A. § 1311-A (1)(C) shall apply and no presumption shall be given as a result of the prior designation of material as Confidential Information. Upon the entry of a final decision granting such a motion, the provisions and restrictions of this Order shall cease to bind any party or other person with respect to the documents or information that the order granting the motion shall have expressly and clearly removed from the coverage of this Order.
4. That, until this Order is modified, access to Designated Confidential Information shall be limited to (i) Commission members and members of the Commission Staff and any independent consultants or experts retained by the Commission in connection with these proceedings; (ii) the Public Advocate and counsel and any independent consultants or experts retained by the Public Advocate in connection with these proceedings; (iii) Fairpoint Communications, Inc. and its counsel and its any independent consultants or experts retained by it in connection with these proceedings; (iv) a stenographer or reporter recording any hearing in connection with this proceeding; and (v) the Company;

5. That all materials claimed by the Company to be Designated Confidential Information under the terms of this Order shall be clearly marked "confidential" by the Company. In the case of documents, each page of any such document shall be stamped "confidential" in bold lettering in the upper right hand corner of each page including the cover letter. Any document or portion thereof not clearly and conspicuously marked "confidential" in bold lettering shall not be protected under the terms of this Order. Faxed materials should be marked as any other document. With regard to other media, diskettes should be marked "confidential" on the outside and, to the extent possible, each file on the diskette should be similarly identified. Any person or party subject to the terms of this Order who receives unmarked documents or materials which he/she believes the Company intended to be protected by the terms of this Order, and that would have been protected if marked in accordance with this paragraph, shall make a good faith effort to notify the Company of this fact and to avoid use of such documents or materials in a manner inconsistent with protection of such material under this Order.
6. That no copies of Designated Confidential Information furnished by the Company shall be circulated to persons other than those persons who are authorized under Paragraph 4 of this Order to obtain Designated Confidential Information. Documents offered in evidence may be copied as necessary for that purpose. Persons authorized under Paragraph 4 hereof also may take such notes as may be necessary solely for the purposes of this proceeding. Those notes shall also be treated as Designated Confidential Information.
7. That the restrictions upon, and obligations accruing to, persons who become subject to this Order shall not apply to any Designated Confidential Information submitted in accordance with paragraph 1 of this Order if the Commission rules, after reasonable notice and hearing, that the Designated Confidential Information was publicly known at the time it was furnished or has since become publicly known through no fault of the receiving party.
8. That where reference to Designated Confidential Information is required in pleadings, briefs, other legal documents, or argument, that reference shall be by citation of title or exhibit number only or by some other non-confidential description to the extent possible. In those circumstances, counsel shall make every reasonable effort to preserve the confidentiality of material in the sealed record. If counsel shall include Designated Confidential Information in pleadings, briefs, other legal documents, or arguments, that portion of the documents or that portion of the transcript of the argument containing Designated Confidential Information shall be maintained under seal.
9. That the Commission may draw upon all Designated Confidential Information in the record in the deliberation of any decision or order that it may issue, but the

Commission will avoid the reproduction in its decision of any Designated Confidential Information.

10. That this Order does not preclude any party from (a) objecting under the Maine Rules of Evidence to the admissibility of any Designated Confidential Information produced by the Company or (b) objecting, on any substantive or procedural ground, to any subsequent data request or other request for information.
11. That the Company may, at its option, provide to each person (other than the Commissioners, the Commission Staff or the Public Advocate) having access to Designated Confidential Information a copy of this Order and require each person to agree in writing to the terms hereof prior to obtaining access to the Designated Confidential Information.
12. That any Designated Confidential Information filed in this proceeding pursuant to this Order shall remain in the possession of the Commission, under seal, and subject to the protective requirements of this Order, unless the Commission or its authorized presiding officer orders otherwise.
13. That this Order may be modified on motion of any party or on the Presiding Officer's or the Commission's own motion upon reasonable prior notice to the parties and an opportunity for hearing.
14. That should any appeal of or other challenge to the Commission's decision in this proceeding be taken, any portions of the record that have been sealed in accordance with Paragraphs 8 and 12 above shall be forwarded to the courts of this State in accordance with applicable law and procedures, but under seal and so designated in writing for the information of the court.
15. That within 40 days after the Commission reaches a final decision in this proceeding that has not been appealed (or is not appealable), each party and the independent consultants and experts retained by the Commission to whom Designated Confidential Information has been made available under this Protective Order shall destroy all documents, notes and other materials containing or reflecting, directly or indirectly, the Designated Confidential Information. Audio, video or other such magnetically recorded materials shall be electronically erased before disposal. Documents shall be shredded.
16. That, notwithstanding paragraph 15 of this Order, copies of Designated Confidential Information and documents, notes and other materials containing or reflecting, directly or indirectly, the Designated Confidential Information, that are in the possession of Commission members, counsel or employees of the Commission may be retained by those persons for the purpose of performing those persons' duties and obligations. If retained, the Designated Confidential Information shall be subject to this Protective Order or to a protective order issued in another

proceeding in which the Designated Confidential Information is used. If a Commission member, counsel or employee of the Commission does not retain the Designated Confidential Information, that person shall destroy it as provided in paragraph 15.

17. That, notwithstanding paragraph 15 of this Order, the sealed record of this proceeding shall be retained by the Commission and shall continue to remain subject to the confidentiality requirements of this Order until the expiration of protection as provided in paragraph 18 or as otherwise ordered by the Commission.
18. That unless otherwise ordered, the protection provided under this Order expires one year after the issuance of the order concluding this proceeding. |

Dated at Augusta, Maine, this 3rd day of October, 2003.

BY ORDER OF THE PRESIDING OFFICER

Peter Ballou